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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR     | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|--------------------------|---------------------|------------------|
| 10/715,949      | 11/18/2003  | Andrew William Buckfield | LET03 P-300         | 4449             |

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EXAMINER

ARYANPOUR, MITRA

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3711

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/715,949 | <b>Applicant(s)</b><br>BUCKFIELD, ANDREW WILLIAM |  |
|                              | <b>Examiner</b><br>Mitra Aryanpour   | <b>Art Unit</b><br>3711                          |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: ball 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The abstract of the disclosure is objected to because the language repeats information given in the title. Therefore the "title" appearing on the top of the page should be deleted. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1, 2, 8, 9, 15 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Keller (3,403,907).

Regarding claim 1, Keller shows a method of playing a game, comprising the steps of: marking boundaries of a playing field (the boundaries around the pool), wherein the playing field includes a plurality of playing zones (the pool can be divided into imaginary zones, e.g. front, mid and back section) with at least one end of the playing field acting as a throwing line (e.g. front), and wherein the playing zones are arranged sequentially, projecting a first throwing ring (means 11 which is a hollow cylinder) from behind the throwing line toward the playing field and into one of the playing zones; projecting a second throwing ring (see column 2, lines, 25-27) from behind the throwing line toward the playing field and into one of the playing zones; projecting at least one first ball (the broadest reasonable interpretation of first ball would include missile 12) from behind the throwing line toward at least one of the first and second throwing rings (means 11), wherein the first ball is associated with the first throwing ring and a first participant; and projecting at least one second ball (the broadest reasonable interpretation of a second ball would include missile 13) from behind the throwing line toward at least one of the first and second throwing rings, wherein the second ball is associated with the second throwing ring and a second participant; and assigning points based upon the position of the first and second balls in relationship to the first and second throwing rings. With regards to the first and second rings being thrown, it should be noted that any well known means can be employed to randomly place the rings (means 11) within the pool or playing field, and it would have been obvious to place the rings in the pool by randomly throwing them in the water. It should further be noted that the claim(s) are not claiming a particular structure, but rather providing steps,

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which are capable of being used with any well-known structure. Additionally, the claimed steps do not require to be carried out in any particular order.

Regarding claim 2, as indicated above Keller shows the playing field to be a pool and zones are considered to be imaginary and arbitrarily assigned as front, middle and back sections. However, additionally zones can also be included to increase the difficulty level, such as subdividing the midsection into 2 or more sections.

Regarding claim 8, note the rejection of claim 1 and claim 2 in part.

Regarding claim 9, note the rejection of claim 2 in part.

Regarding claim 15, note the rejection of claim 1 and claim 2.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-7, 10-14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keller (3,403,907).

Regarding claim 3 in part, Keller additionally shows each player can have up to 5 balls (missile 12; see column 2, lines 21-32) wherein the at least one first ball includes three of the first balls and the at least, one second ball includes three of the second balls (missile 13 can be up to 5 missiles),

Regarding claim 3 in part and claims 4, 5 and 7, Keller shows that the game can be played similar in manner to horseshoes or quoits. Keller additionally shows that a score system

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can be established for children, wherein the first to reach a score of twenty-five is considered the winner. For adults Keller suggests playing a game such as poker. In addition to the aforementioned, Keller teaches that special rules can be provided for playing the game, or rules may be established from time to time as a game progresses. Keller also teaches that the games may be devised which are either relatively active or relatively passive. Keller does not disclose expressly the assignment of points to particular zones or areas. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to assign any desired point value to the playing zones, because Applicant has not disclosed that assigning point values, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the point value system taught by Keller or the claimed point value because both value systems perform the same function of determining the winner. Therefore, it would have been an obvious matter of design choice to modify Keller to obtain the invention as specified in claim 3 in part and claims 4, 5 and 7.

Regarding claim 5 in part and claim 6, Keller does not expressly disclose if points can be achieved when the missile lands within a predetermined distance of the ring(s), and if so, what the predetermined distance should be. Keller simply states that a distance between the players and the rings can be determined arbitrarily and the score of the game may be calculated on the number of missiles that come to rest within the rings, but goes on to teach that the game can be played in many different ways (see column 13, lines 27-38).

Regarding claim 10, note the rejection of claim 3 in part.

Regarding claim 11, note the rejection of claim 4.

Regarding claim 12, note the rejection of claim 5.

Regarding claim 13, note the rejection of claim 6.

Regarding claim 14, note the rejection of claim 7.

Regarding claim 16, note the rejection of claim 3 in part.

Regarding claim 17, note the rejection of claim 4.

Regarding claim 18, note the rejection of claim 5.

Regarding claim 19, note the rejection of claim 6.

Regarding claim 20, note the rejection of claim 7.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kanda; Jackson et al; Simunek; Acton ; Ruvio ; Buzak et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA  
10 January 2004



**MITRA ARYANPOUR**  
**PRIMARY EXAMINER**